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EXAMINER

KISS, ERIC B

ART UNIT	PAPER NUMBER
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2122

DATE MAILED: 06/02/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/560,473

Applicant(s)

JOHNSON, WILLIAM S

Examiner

Eric B. Kiss

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-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The amendment of March 17, 2003, has been received and entered. Claims 1-38 are pending.

Response to Amendment

2. The amendment filed March 17, 2003, is not entitled to the benefits of 37 CFR 1.8 since it was not deposited with the U.S. Postal Service for delivery to the U.S. Patent and Trademark Office on the date indicated in the Certificate of Mailing (the Certificate of Mailing was signed on March 13, 2003, after the date deposited as indicated). Therefore, the date of receipt in the U.S. Patent and Trademark Office has been used to determine the timeliness of the paper.
3. The separate declarations of William S. Johnson, Jr. and Steven N. Terranova, filed on March 17, 2003, under 37 CFR 1.131 have been considered but are ineffective to overcome the U.S. Patent No. 6,442,448 (Finley et al.) reference.
 - a) The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the Finley et al. reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler*

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v. Scudder, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897). Applicant appears to rely on Exhibit A cited in William S. Johnson, Jr.'s Declaration to establish a conception date of August 4, 1998. This memo, with subject "Discussion on Electronic Software Downloading", fails to show a clear and definite idea of the complete and operative invention as it is recited in the claims. For example, the submitted memo fails to disclose the use of a web-based interface (as claimed in claim 14 and taught by Finley et al. as applied in the previous office action). The remaining portions of the declarations and exhibits supplied do not provide any further evidence related to conception prior to the filing date of the Finley et al. reference.

b) The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Finley et al. reference to either a constructive reduction to practice or an actual reduction to practice. Generally, the patent attorney must show that unrelated cases are taken up in chronological order, thus the attorney has the burden of keeping good records of the dates when cases are docketed as well as the dates when specific work is done on the applications (*Bey, et al. v. Kollonitsch, et al. (CA FC) 231 USPQ 967*). Evidence which is of a general nature to the effect that work was continuous and which has little specific as to dates and facts does not constitute the kind of evidence required to establish diligence in the critical period (*Hunter, et al. v. Beissbarth (BdPatApp&Int) 230 USPQ 365*). Further detail is necessary in order to properly account for, and provide evidence of reasonable diligence for, the activities during the following time periods as described in the Declaration of Steven N. Terranova; without further evidence establishing reasons for delay or a discussion of specific obstacles and

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steps taken to overcome those obstacles, the following time periods appear to be excessive for the activities described:

- i) July 12, 1999 through December 1, 1999, in which the PowerPoint® presentation (16 slides) of Exhibit A was studied (see item 5).
 - ii) December 1, 1999 through January 23, 2000, in which the PowerPoint® presentation (16 slides) of Exhibit A was presented to the Gilbarco Patent Committee for consideration (see item 6).
 - iii) January 24, 2000 through March 2, 2000, in which a patent search was conducted and a patentability opinion (Exhibit C) was prepared (see item 8).
- c) The Examiner further notes the following inconsistencies in the declarations submitted:
 - i) In item 5 of the Declaration of Steven N. Terranova, Mr. Terranova indicates that he sent a letter on William Johnson on December 19, 1999. The same letter is described in the Declaration of William S. Johnson, Jr. (item 7) as having been sent on December 1, 1999. It is further noted that no further evidence of this letter has been submitted.
 - ii) There is no item 7 in the numbered list of activities in the Declaration of Steven N. Terranova. Based on this numbering error, it is unclear whether the disclosure of item 8, which begins with “Subsequently” is intended to refer to the period immediately following item 6, or whether a disclosure of activities has been inadvertently omitted.

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iii) Items 10 and 12 in the Declaration of Steven N. Terranova describe supposed pre-filing activities that postdate the April 28, 2000 filing date of the application.

iv) The activities and time periods described in items 8-10 and 12 of the Declaration of Steven N. Terranova are inconsistent with the activities and time periods described in items 8 and 10 of the Declaration of William S. Johnson, Jr.

4. Applicant's amendment to the specification appropriately addresses all objections to the drawings and specification as detailed in the previous office action. Accordingly, these objections are withdrawn in view of Applicant's amendment.

5. Applicant's clarifying remarks in paragraph 3 of page 4 appropriately addresses the objection to claim 13 as detailed in the previous office action. Accordingly, this objection is withdrawn in view of Applicant's remarks.

6. In response to Applicant's remarks in the last paragraph of page 4, the provisional nature of the double patenting rejection, as detailed in the previous office action, does not relieve the Applicant of the responsibility of responding to the grounds of rejection presented. The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner's action and must reply to every ground of objection and rejection in the prior Office action (see 27 CFR §1.111(b)). While the correction of informalities may be delayed, the Applicant may not deliberately delay the presentation of arguments traversing a rejection.

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7. Applicant's amendment to claim 16 appropriately addresses the rejection under 35 U.S.C. §112, second paragraph, based on indefiniteness, as detailed in the previous office action. Accordingly, this rejection is withdrawn in view of Applicant's amendment.

Response to Arguments

8. Applicant's arguments filed March 17, 2003, have been fully considered but they are not persuasive.

9. In response to Applicant's arguments on page 5, paragraph 4, through page 6, paragraph 2; page 6, paragraph 4; and page 7, paragraph 3: the Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the Finley et al. reference teaches a system comprising a serial interface for transmitting data from a technician's laptop computer to a computer at a remote location. The Kirouac et al. reference teaches that it is known to poll and provide software upgrades from a centralized location to remote locations. A combination of the references yields polling and upgrading software from a central location to a remote location using a laptop computer as an intermediate transfer means. The motivation to arrive at this

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combination comes from knowledge generally available to one of ordinary skill in the art. One of ordinary skill in the art would recognize that utilizing an already established communication means such a serial laptop interface taught by Finley et al. to transfer data such as the software upgrades of Kirouac et al. would result in reliable and efficient data transfer. In addition, by physically visiting the remote site with such a laptop computer and performing diagnostics and setup (as taught by Finley et al.), additional functions could be performed such as diagnosing and fixing problems when an alternate network may be down or performing a manual hardware reset to reboot an updated machine.

The rejections maintained and reproduced below have been reworded to promote clarity regarding which features of each reference are being combined and what motivation exists for combining those features.

Double Patenting

10. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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11. Claims 1-38 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-34 of copending Application No. 09/611,087 in view of U.S. Patent No. 6,442,448 to Finley et al. The following example is given in which the actual claim language of Application '087 is underlined for clarity.

As per claims 1, 2, and 11 of the instant application, '087 claims (in claim 1):

A method of upgrading software at a remote fueling site from a computer system (a location remote from a corporate computer) comprising:
accessing a site controller at the remote fueling site (computer at a remote location) with the computer system (corporate computer);
evaluating a database to determine what software upgrades may be available to said remote fueling site; and
downloading a software upgrade to said site controller from the computer system (uploading a software upgrade to said computer at said remote location) based on said evaluating.

'087 does not claim downloading the software upgrade to a portable computing device or using a portable computing device to access the computer at a remote location. However, Finley teaches accessing a remote computer/site controller (Site Manager (SM)) using a portable computing device (technician's laptop connected to a service serial port) for the purpose of diagnostics and setup (upgrading; see column 10, line 62 through column 12, line 7, and in particular, column 11, lines 32-38). Finley furthermore suggests equivalence between the service serial port and an Ethernet port also disclosed for the purpose of a network connection (see Finley, column 11, lines 28-31, and lines 34-38 for equivalence). Therefore, it would have

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been obvious to one having ordinary skill in the computer art at the time the invention was made to modify the claimed method of Application '087 to include using a portable computing device to transfer upgrades to the remote computer/site controller as per the teachings of Finley. One would be motivated to do so to allow on-site access to the remote computer through a technician's portable interface.

This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 1-7, 10-16, 27, and 29-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,155,847 to Kirouac et al. in view of U.S. Patent No. 6,442,448 to Finley et al.

As per claim 1, Kirouac et al. disclose a software upgrade from a corporate computer (central computer system) to a computer at a remote location (see column 1, line 56 through column 2, line 15). This is done to provide bug fixes and/or additional features to deployed software. Kirouac et al. fail to expressly disclose downloading a software upgrade to a portable

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computing device and accessing a computer at a remote location with the portable computing device. However, Finley et al. teach accessing a remote computer (Site Manager (SM)) using a portable computing device (technician's laptop connected to a service serial port) for the purpose of diagnostics and setup (see column 10, line 62 through column 12, line 7, and in particular, column 11, lines 32-38). Therefore, it would have been obvious to one having ordinary skill in the computer art at the time the invention was made to modify the method of Kirouac et al. to include using a portable computing device to receive upgrades and to transfer the upgrades to the remote computer as per the teachings of Finley. One would be motivated to do so to utilize available means, such as the laptop interface of Finley et al. to transfer data such as software upgrades.

As per claims 2 and 11, in addition to the teachings applied above, Finley further teaches a remote location comprising a fueling site (see column 2, lines 65 and 66) and accessing a site controller at a fueling site (Site Manager; see column 3, lines 5-27 and column 10, line 62 through column 12, line 7). Therefore, it would have been furthermore obvious to one having ordinary skill in the computer art at the time the invention was made to further modify the method of Kirouac to include the remote location comprising a fueling site and accessing a site controller at the fueling site as per the teachings of Finley. One would be motivated to do so to allow for upgrading of software within such a fueling site environment that also comprises computer systems.

As per claim 3, Kirouac further teaches storing a record indicative of a quantity of upgrades performed (program history section; see column 5, lines 19-61). Therefore, for reasons stated previously, such a claim also would have been obvious.

As per claim 4, Kirouac teaches downloading a software upgrade from a corporate computer (central computer system) to a computer at a remote location (see above applied teachings) but fails to explicitly teach downloading the software upgrade from the computer to a peripheral device. However, Finley suggests downloading a software upgrade to a peripheral device (see column 15, line 59 through column 16, line 7). Therefore, it would have been obvious to one having ordinary skill in the computer art at the time the invention was made to further modify the method of Kirouac to include downloading a software upgrade from a computer to a peripheral device as per the teachings of Finley. One would be motivated to do so to ensure that all downstream software components (such as in a replaceable hardware module) are exactly what they are supposed to be.

As per claims 5-7 and 10, Kirouac teaches using a client database to compile and store a plurality of records, each record indicative of a hardware (group) and software configuration of a remote computer (see column 9, lines 38-63) and subsequently providing the record to the corporate computer (central computer; see column 13, lines 3-18). Therefore, for reasons stated previously, such claims also would have been obvious.

As per claims 12, Kirouac et al. disclose polling hardware and software existent at a remote site and storing a plurality of records, each record relating to hardware and software configuration at different remote sites (see column 9, lines 38-63), and uploading the plurality of records to a corporate computer (central computer; see column 13, lines 3-18). Kirouac et al. fail to teach sending an individual equipped with a portable computing device to a plurality of remote sites, the remote sites being fueling sites, and using a portable computer for the step of polling. However, Finley et al. teach accessing a remote computer (Site Manager (SM)) using a

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portable computing device (technician's laptop connected to a service serial port) for the purpose of diagnostics and setup (see column 10, line 62 through column 12, line 7, and in particular, column 11, lines 32-38). Therefore, it would have been obvious to one having ordinary skill in the computer art at the time the invention was made to modify the Kirouac et al. method to include sending an individual equipped with a portable computing device to remote fueling sites as part of creating, storing, and transmitting records related to fueling site hardware and software configuration as per the teachings of Finley et al. One would be motivated to do so to utilize available means, such as the laptop interface of Finley et al. for configuration monitoring at fueling sites that contain computer hardware and software.

As per claim 13, see the rationale applied above to claim 12, wherein the limitation of "an individual equipped with a portable computing device" has already been addressed.

As per claim 14, in addition to the teachings applied above, Finley further teaches a web-based interface (SMTP email client) through which data can be sent to a corporate computer (see column 24, lines 47-59). Therefore, it would have been obvious to one having ordinary skill in the computer art at the time the invention was made to include such a web-based interface for communicating with a corporate computer. One would be motivated to do so to provide a standard protocol for data communication.

As per claim 15, in addition to the teachings applied above, Finley further suggests using the portable computing device for acquiring/polling information at the remote fueling site through a site controller (Site Manager (SM); see column 3, lines 5-27 and column 10, line 62 through column 12, line 7). Therefore, for reasons applied above, such a claim also would have been obvious.

As per claim 16, Kirouac further teaches generating recommendations as to potential upgrades from the plurality of records (see column 9, lines 34-63). Therefore, for reasons applied above, such a claim also would have been obvious.

As per claim 27, this is a device version of the claimed method steps discussed above (claim 6), wherein all claim limitations have been addressed as set forth above. Thus, accordingly, such a claim also would have been obvious.

As per claim 29, Kirouac further teaches installing a patch to enable functioning of a software upgrade package at a remote location (see column 13, lines 13-18). Therefore, for reasons applied above, such a claim also would have been obvious.

As per claim 30, this is a system version of the claimed method steps discussed above (claim 7), wherein all claim limitations have been addressed as set forth above. Thus, accordingly, such a claim also would have been obvious.

As per claim 31, official notice is taken that it would have been obvious to one having ordinary skill in the computer art at the time the invention was made to record commission related data based on a number of software upgrade installations performed by a portable computing device (and corresponding technician). One would be motivated to do so to promote an efficient work schedule for a technician traveling to several remote sites by paying per upgrade rather than per hour worked.

As per claim 32, this is a system version of the claimed method steps discussed above (claim 2), wherein all claim limitations have been addressed as set forth above. Thus, accordingly, such a claim also would have been obvious.

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As per claim 33, this is a system version of the claimed method steps discussed above (claim 2), wherein all claim limitations have been addressed as set forth above, including the portable computing device being a laptop computer (technician's laptop connected to a service serial port; column 11, lines 32-38 of Finley as cited above). Thus, accordingly, such a claim also would have been obvious.

As per claim 34, Official notice is taken that with regards to performing the prescribed tasks, including receiving and transferring software data, and having the property of being a portable computing device, a personal digital assistant would have been recognized by one having ordinary skill in the computer art at the time the invention was made to be an equivalent of a laptop computer. Therefore, for reasons applied above, such a claim also would have been obvious. One would have been motivated to use a personal digital assistant instead of a laptop because they are art-recognized equivalents.

As per claims 35 and 36, in addition to the teachings applied above, Kirouac further teaches determining upgrades needed at a remote site and communications means for accessing the corporate computer (see column 9, lines 24-38). Therefore, for reasons applied above, such a claim also would have been obvious.

As per claim 37, this is a system version of the claimed method steps discussed above (claim 11), wherein all claim limitations have been addressed as set forth above. Therefore, for reasons applied above, such a claim also would have been obvious.

As per claim 38, in addition to the teachings applied above, Finley further teaches the Site Manager being a gateway or portal to access the fuel dispensers at the fueling site (see column 12, lines 25-34). Therefore, a device such as the technician's laptop already discussed

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would be adapted to communicate with a fuel dispenser (through the Site Manager). Therefore, it would have been obvious to one having ordinary skill in the computer art at the time the invention was made to further modify the system of Kirouac to include transferring means adapted to communicate with a fuel dispenser as per the teachings of Finley. One would be motivated to do so to allow for data transfer to/from a fuel dispenser.

14. Claims 8, 9, 17-26, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirouac in view of Finley as applied to claims 1 and 27 above, and further in view of U.S. Patent No. 6,247,128 to Fisher et al.

As per claims 8 and 9, Kirouac and Finley teach downloading a software upgrade from a corporate computer using a portable computer device (see above applied teachings) but fail to teach subsequently accessing said corporate computer to secure an accounting for upgrades or accounting for royalties due a third party based on said upgrades installed. However, Fisher teaches accessing a corporate computer (a database network at manufacturing headquarters including royalty tracking systems) to account for royalties due to third-party software providers based on installed software components (see column 11, lines 44-55). Therefore, it would have been obvious to one having ordinary skill in the computer art at the time the invention was made to further modify Kirouac and Finley to include securing an accounting, including royalties, for software upgrades installed as per the teachings of Fisher. One would be motivated to do so to enable meeting payment obligations for software installed.

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As per claim 17, method steps comprising each of these limitations have already been addressed as set forth above (relative to claims 3, 8, and 12). Therefore, for reasons applied above, such a claim also would have been obvious.

As per claim 18, method steps comprising each of these limitations have already been addressed as set forth above (relative to claims 3, 9, and 12). Therefore, for reasons applied above, such a claim also would have been obvious.

As per claim 19, official notice is taken that it would have been obvious to one having ordinary skill in the computer art at the time the invention was made to record commissioning obligations. One would be motivated to do so to promote an efficient work schedule for a technician traveling to several remote sites by paying per upgrade rather than per hour worked.

As per claims 20, 21, and 23, method steps comprising each of these limitations have already been addressed as set forth above (relative to claims 3, 8, and 12). Therefore, for reasons applied above, such claims also would have been obvious.

As per claims 22 and 24, Kirouac further teaches storing a version number associated with each upgrade and storing a version number associated with software existent prior to an upgrade (see column 9, lines 34-53). Therefore, for reasons applied above, such claims also would have been obvious.

As per claims 25 and 26, official notice is taken that it was well known and common practice in the computer art at the time the invention was made to determine if upgrading resulted from a warranty contract, i.e. checking to see if a registered software component is within a warranty period at the time of upgrade, and accounting for a remote site if upgrading fell outside of any warranty contract obligation, i.e. if the warranty is expired, charging for said

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upgrading. One would be motivated to do so to ensure that services rendered comply with warranty obligations and appropriate fees, if any, are collected. Therefore, for reasons applied above, such claims also would have been obvious.

As per claim 28, this is a device version of the claimed method steps discussed above (relative to claims 6-8), wherein all claim limitations have been addressed as set forth above. Thus, accordingly, such a claim also would have been obvious.

Conclusion

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric B. Kiss whose telephone number is (703) 305-7737. The

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examiner can normally be reached on Tue. - Fri., 7:30 am - 5:00 pm. The examiner can also be reached on alternate Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on (703) 308-4789.

Any response to this action should be mailed to:

Commissioner for Patents
P.O.Box 1450
Alexandria, VA 22313-1450

Or faxed to:

(703) 746-7239 (for formal communications intended for entry)


Or:

(703) 746-7240 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, 22202, Fourth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

EBK
May 29, 2003


GREGORY MORSE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100